

Printed Paper
Of some of the
UNDER-CLERKS
IN
CHANCERY.

INTITULED,

*Reasons to be offered, Touching the Fees mentioned in
the Table annexed to the Ordinance relating to
the Intended Attornies in Chancery.*

With an ANSWER thereto.

AS ALSO

A Petition formerly exhibited by the
Clerks, to the Six Clerks their Masters
hereunto annexed.



Imprinted Anno Domini 1634.

Reasons to be offered touching the
Fees mentioned in the Table an-
nexed to the Ordinance, relating
to the intended Attorneys in
Chancery.

FOrasmuch as the inconvenience of allowing Fees not
suitable to the service, will (not only) make men of the
most known repute among the present Practisers desert
the employment, and leave the same to the manage-
ment of such as cannot otherwise subsist, but the considera-
tion thereof will make the employment of so low an esteem
that scarce any man will have encouragement hereafter to
put his Child to be bred in the Court that can discern any
other probable way to prefer him; if therefore there be
a necessity of continuing the Court, there cannot in pro-
bability be a better way of preserving the same in a can-
did repute, then to give a competent recompence to them that
shall do the service thereof, and then let what penalty will be
laid on them if they exceed that limit: And the people of *Eng-
land* never yet did think much to pay a competent recompence
for good and honest service done them, nor is it yet thought
they will expect the labours of any men (especially men that
have spent all their times in fitting themselves for their service
which could not be done but by charge and industry) without
full recompence.

Now in respect the whole matter of regulation is under the
Committee, not only to consider what is held fit of the Ordi-
nance to be observed, but what else may in order to a full re-
gulation be thought of;

It is humbly proposed as the most fit expedient for the future
That the Committee will take into their consideration what the

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work of the Court and every particular Member thereof, and how necessary every particular Member is to the service of the Court and people of the Nation; which will be a way to provide that they shall pay nothing unnecessarily or for nothing, and then may they afford to give a competent recompence to these that shall remain and not seem burthenfome or to encrease the charge. Without which provision the taking away Fees in general without consideration of the businesse done, or from whom taken, may prove of very ill consequence.

And by the Ordinance, the transcript of the Bill and Commission (which was the Clerks chiefest profit) being wholly taken away, the Fees allowed by the Table thereto annexed, are very moderate, and no greater (if so great) as the Attorneys of other Courts do receive; And if too mean an Allowance be settled for the Attorneys (who do the whole business (in reference to the practical part) of the Court) the same will be very inconvenient to the people, for that all men of parts and honesty will desert the Employment, and Clients must intrust either persons no way qualified, and so unable to advise them, or persons dishonest and not fit to be trusted, and such who if they have opportunity will make a prey of their Clients, and not fear the penalty of a Law.

And this inconvenience hath been sufficiently evidenced in the examples of late times, when by reason of the small allowances given to the Clerks (who acted as Attorneys for the Clients) they were in some sort necessitated to share with the Six Clerks in their Fees, without which they could not subsist; And if the Fees should be no otherwise divided then the Ordinance and Table mentions, the same would lay an absolute necessity on the Attorneys either to quit their places, or else to conceal and keep to their own uses as much of the Fees allowed to the superintendents, as possibly they could, and thereby the Client will be more prejudiced then if he had paid double Fees.

And it can easily be made appear that the Fees allowed to the Attorneys for drawing or making special or ordinary Writs or Processes according to the Ordinance, are so small and inconsiderable, that no man will write or ingrosse the business for the profit of it; And it cannot be expected that Clients busi-

ness should be well dispatched, when the Attorney (besides his own care of the cause) shall with his own hand make several Entries of an ordinary Writ or Process, and then give all the Fee that belongs to him for the same Writ to some other that writes it for him, or when he shall with his own hand draw any special Commission, Injunction, Sequestration, Writ of Assistance, or the like, and then give a young Clerk as much (if not more) for ingrossing the same, as the Fees allowed by the Table to the Attorneys do amount unto; And this he must of necessity do, for that the meanest Scriveners Boy will not write it at a cheaper rate.

There are many other things to be done by the Attorneys in prosecution and defence of their Clients Causes, for which there is no Fee at all allowed in the Table, as namely drawing all Affidavits, Breviats, and Copies thereof, Rules to answer, and for publication, and many other like things: and and yet by some general words in the 66 Rule, if any thing be taken for doing any of these, or other things, of like Nature, it is made Extortion, when for drawing a Breviat it may oftentimes well deserve 20 s. and sometimes more.

And the better to demonstrate that the Fees in the Table annexed to the Ordinance are not sufficient allowances for the Attorneys of the Court (it being admitted that one moiety of the Fees are to be paid to the Superintendent, and the other moiety to the Attorneys, although the same be not clearly so expressed in the 26 Section) it is shewed as followeth.

That the moiety of the Attachment Fee is 7 d. Now for this Fee the Attorney is first to give a Rule to answer and make three several Entries of it, viz. in the Attorneys own Book, in the general Book for their own Office, and in the Register, which being done, then there is likewise a treble Entry to be made of the Attachment in the same Books as before, and then to make and send the Attachment to the Seal; The words of which Entries and of the Attachment it self are ready to be produced, besides all which Entries and making of the Writ, there must be some time spent in the several Books of Entry and Offices, and in sending too, and receiving back the same from Seal; and they humbly appeal to the judgement of the Committee

Committee, whether the several Entries aforesaid, and making of the Attachment, doth not well deserve the 1st 4^d Fee allowed by the Ordinance, and the rather for that if any the least failer be in the not entring or mis-entring of any of the aforesaid Rules, the Clerk pays more for the same mistake than he gains by making ten Attachments.

2. For the Copying of all Bills, Answers, and other pleadings and Records, the Fee allowed to the Attorney is 2^d per fol. and ten words in a line: Now if it be but seven or eight words in a line (for its impossible to prefix a certain number of words for every line, five words sometimes necessarily requiring as much space to write them as ten other words,) how small an allowance this is for an Attorney that spends almost the whole day in advising and directing Clients, and managing their Cause, and cannot ordinarily write ten Sheets in a day, is likewise humbly desired may be considered; for doubtlesse 2^d per fol. were as good wages for one that late close at his writing in his Shop or beat all the day without the trouble of directing Clients, and well-guiding and ordering of their Causes, as 2^d per fol. is to the Attorneys that manage their Clients Causes: And for that the well-ordering of Causes by Attorneys is of much more importance to Suitors, then the raising of them 2^d or 2^d per fol. in the Copies, it is desired, that 4^d per fol. may be allowed to the Attorneys for all Copies.

3. For every Commission and joyning in Commission the Fee being set at 3rd 4^d, the Attorney to have 1st 4^d 8^d: Now besides the meer writing of the Commission, which of it self deserves 1st 4^d 8^d, as by the same may appear, there is incident to the making of this Writ two several Entries, one in the Attorneys Book, and another in the Register, and much time spent in getting Commissioners Names from the adverse party, and agreeing which of them shall stand for Commissioners, and oftentimes attendances upon the Master of the Rolls, are required to reconcile differences in the nomination and choise of Commissioners; and after all this done, if any the least mistake be in the Commission, the Attorneys that makes it must pay costs: So that it is conceived and humbly offered to consideration, whether the 3rd 4^d Fee in the

the Ordinance mentioned be not a moderate Fee which ought to be paid wholly to the Attorney for the making Commission to examine and doing all other things preparatory and incident thereunto.

4. The Fee of every Injunction is 6^l--8^d, the moiety whereof being 3^l--4^d, doth no way satisfy the Attorney for drawing and ingrossing thereof, as by a draught and ingrossment of an Injunction ready likewise to be produced may appear; besides which drawing and ingrossing, the Attorneys bestow much labour and pains in attendances touching the same: For all which they hope it cannot be thought unreasonable that they should receive the Fee of 6^l--8^d for their pains, in drawing, ingrossing and passing of an Injunction.

5. For every special Commission is allowed 5^l, whereof to the Attorney 2^l--6^d. But how well the Attorney deserves the whole 5^l for drawing and ingrossing a special Commission, the draught and ingrossment of such Commission, which is ready to be produced, will manifest; which is humbly desired may be taken into consideration, and that the summe of 5^l may be allowed to the Attorneys for the making of every such special Commission.

6. For every Writ of Execution of an Order, is allowed 3^l--4^d, whereof the Attorneys allowance is 1^l--8^d, whereas some Writs of execution of an Order are a full skin of Parchment; so that the Parchment it self will sometimes cost the Attorney as much as he should be allowed for writing it; and generally a Writ of execution of an Order, doth very well deserve 3^l--4^d, as by a Writ of execution of an Order likewise ready to be shewn forth appears, so that it is humbly proposed, that for every such Writ, the Fee of 3^l--4^d may be paid to the Attorney that makes the same.

7. For drawing and inrolling every Decree (or Dismission, if but one skin) is allowed 16^l--8^d, of which to the Attorney 8^l--4^d, which is very little more then any ordinary Clerk of any Court will have for ingrossing or copying so much Writing (having his pattern before his face:) And Decrees (which are of the greatest concernment to Clients of any thing in the Court) ought to be drawn with much care, and more time will be spent

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in drawing the quantity of one skin in a Decree (if it be well drawn) then will suffice to copy two skins; therefore it is proposed, that the 6^s 8^d be allowed to the Attorney that draws the Decree, if but one skin, if more 2^d per fol.

8. For every Writ of execution of a Decree directed to the Sheriff or Coroner 6^s 8^d is allowed, of which to the Attorney 3^s 4^d which is no considerable allowance for the drawing and ingrossing of such Writ of Execution (or rather Special Commission) as by a draught and copy of such Writ, and the ingrossment thereof may appear, of which it is humbly desired consideration may be had, and that the 6^s 8^d Fee may be wholly allowed to the Attorney.

For a Writ of execution of a Decree directed to the party, as all Writs of executions of Decrees at first are, there is no Fee at all set down in the Table, nor is any Fee allowed for a Commission of Rebellion, but the same and the several duties and doquer are humbly offered to consideration.

9. For every skin of an Exemplification is allowed 13^s 4^d, so that the Attorney shall have but 6^s 8^d for the parchment and writing, and also for making the Doquet, examining it twice with two Masters of the Court; All which writing and pains doth well deserve the whole Fee of 13^s 4^d per skin.

All the rest of the Writs mentioned in the Table of Fees to be made by the Attorneys, are very rare, and not made by an Attorney once in a Terme, and some of them not once in seven years; but the Fees allowed for making them are but small, and no more than the Attorney that makes them will well deserve for his pains.

Ob. It is objected against the increase of Fees to the Attorneys, that the 3^s 4^d Termely Fee (which is added to them) do somewhat near equalize the transcript of the Bill and Commission which is taken away, and that the rest of the Fees allowed them are near about what their Fees were before; And therefore they may as well live and maintain themselves and families upon the Fees now allowed, as formerly they did upon the Fees heretofore allowed.

Ans. In answer whereto, the 3^s 4^d Termely Fee is not equivalent to the loss of the transcript and *De dimissis*; And besides there

there is now so much extraordinary paine (more than formerly) laid on the Attorney, as will well deserve that Termely Fee; so as the same ought not to be had in consideration as any recompence to the other loss. And though the other Fees formerly allowed to the Clerks as due to them, were not much different from what are mentioned in the Ordinance; yet since the busines of the Court increased, and the whole care and management of Causes lay upon them, and they made answerable for all mistakes, and subject to all losses and hazards in disbursing their Monies; and otherwise they did share with the six Clerks in the Fees as they conceived they might justly do, and often received to their own uses, the full Fees of 8^d per sheet for Copies, and likewise the whole Fees of some Writs, by which means they received as much as the whole Fees now expressed in the Table to the Ordinance annexed.

Therefore to settle a competent allowance to the Persons upon whom the Clients depend for managing their Causes, is the best means to have the busines faithfully done.

In order whereunto it is humbly proposed:

1. That a fourth part of the Fees now paid, will be sufficient for the chief Clerks, each of them being to have 27 Attorneys under him, and the Attorneys being allowed a moiety of the Fees now paid, each chief Clerk will have half as much as the 27 Attorneys with their servants; Besides the inrollment of all such Letters Patents as pass the great Seal, worth *communibus annis* 150^{lb} per Annum; And the six Clerks and Clerks of the Pettybagg, have the inrolling all Deeds, worth to the six Clerks *communibus annis* 300^{lb} per Annum.

2. That a fourth part of the Fees, together with the whole transcript of the Bill in the Commission, is a large abatement to the Suitor, considering the same are now no other then were paid many hundred of years since, when Monies were much scarcer, and all Commodities cheaper.

3. That a fourth part of the Fees being so abated, there will not ordinarily be above 4th spent in bringing a Cause to hearing, if interlocutory motions upon the merits of the Cause were prevented.

Finis.

